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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,225	09/24/2003	Yasuhiro Odakura	04329.3149	1594
22852	7590	07/11/2005	EXAMINER	
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			SHIN, CHRISTOPHER B	
			ART UNIT	PAPER NUMBER
			2182	

DATE MAILED: 07/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/668,225

Applicant(s)

ODAKURA ET AL.

Examiner

Christopher B. Shin

Art Unit

2182

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 9/24, 2/8, & 3/4.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 6-9, 12-20 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Bello et al (5,944,802).

a. In figure 1 and the respective descriptive sections of the Bello reference teaches the claimed limitations as follows:

Claims 1-3 & 6-9 Bello et al.

- An electronic apparatus
 - Feature of (100)
- A communication device
 - Feature (106)
- A first storage device which buffers received data of the communication device
 - Feature of elements between (106 & 102)
- A second storage device which stores the received data buffered in the first storage device
 - Feature of (102)
- A calculation unit configured to calculate a remaining time until the first storage device becomes full of data, on the basis of a data transfer rate of the communication device and a free capacity of the first storage device
 - Feature of elements between (102 & 106)
- A control unit configured to start up the second storage device when the remaining time calculated by the calculation unit reaches a predetermined time
 - Feature of elements of between (102 & 106)
- 2&7. wherein the control unit stops the second storage device when the received data buffered in the first storage device has been stored in the second storage device after the second storage device is started up
 - Feature of figure 2B/2C

Art Unit: 2182

- 3&9. wherein the communication device executes packet communication
 - Feature of blocks in figure 2B/2C
- 3&9. the calculating unit calculated the data transfer rate of the communication device on the basis of reception times of tow packet which are received successively and a data size per packet
 - Feature of column 6, lines 34-38
- 6&8. a startup time holding unit configured to hold a startup time of the second storage device; and the control unit starts up the second storage device when the remaining time calculated by the calculation unit reaches the startup time held by the startup time holding unit
 - Feature of column 4, lines 30-34

b. As for claims 1-3 & 6-9, the Bello reference teaches, as discussed above, system that are substantially identical to the claimed invention; therefore, the claimed invention would have been anticipated or one skilled in the art can easily come up with the claimed invention from the teachings of the substantially identical teachings of the Bello reference. More specifically, it appears that the Bello's teaches elements between (102 & 106) as being substantially identical, but not exactly identical to the claimed calculation & control unit; it would have been obvious at the time the invention was made to one having ordinary skill in the art to come up with the invention since the Bello's teachings are not only substantially identical, but also functionally identical in terms of accomplishing the gist of the claimed invention.

c. As for claims 12, 13-19 & 20, the teachings of claims 1-3 & 6-9 are similarly & respectively applied, since, the claims 12, 13-19 & 20 respectively disclose same subject matter that are not patentably distinct from the claims 1-3 and 6-9.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4-5 and 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bello et al in view of common knowledge in the art.

d. The teachings of parent claims 1 & 6 have been discussed above in details and are similarly applied here.

e. The dependent claims 4-5 further adds limitations like "driven by electric power supplied from the battery" & "communication device executes wireless communication"; however, though the Bello does not expressly disclose such limitations, such limitations are considered common knowledge or standard practice in the art of electronic apparatus. The examiner takes official notice on such well-known common knowledge or standard practice.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher B. Shin whose telephone number is 571-272-4159. The examiner can normally be reached on 6:30-5:00 M,Tu,Th,F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin can be reached on 571-272-4146. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2182

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Christopher Shin
Primary Examiner
Of 2182

A handwritten signature in black ink, appearing to read 'Ch Shin', written in a cursive style.

June 21, 2005
cbs